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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,687	09/17/2003	David M. Skinko	Q137-US6	6258
31815 7590 01/23/2009 MARY ELIZABETH BUSH QUALLION LLC P.O. BOX 923127 SYLMAR, CA 91392-3127				
EXAMINER				
HODGE, ROBERT W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,687

Applicant(s)

SKINLO, DAVID M.

Examiner

ROBERT HODGE

Art Unit

1795

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-45 and 67-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-45, 67-69 and 83-87 is/are rejected.
- 7) ☒ Claim(s) 70-82 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/20/08 has been entered.

Response to Arguments

Applicant's arguments, see Remarks, filed 11/20/08, with respect to the rejections under 35 U.S.C. 112, first and second paragraph have been fully considered and are persuasive. The rejections under 35 U.S.C. 112, first and second paragraph has been withdrawn.

Applicant's arguments, see Remarks, filed 11/20/08, with respect to the rejection(s) of claim(s) 43-45, 67-69, 83, 84 and 86 under 35 U.S.C 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent Nos. 3,159,508 and 6,399,242.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 43-45, 67-69, 83 and 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teramoto et al. (US 5,501,916) in view of Kitoh et al. (US 6,399,242 B2) and Chreitzberg (US 3,159,508).

With respect to claims 43, 45, 85 and 86 Teramoto et al. teach a lithium battery comprising a battery can (45) sealed by a first battery lid (47) and a second battery lid (47), an electrically conductive terminal core (48) extending through the first battery lid and electrically insulated from the case by gasket (46), an electrode assembly disposed within the can, wherein the positive electrode is in electrical communication with the core while the negative electrode is not in electrical communication with the core. See Figure 9, Example 2.

However, Teramoto et al. do not teach a conductive tab extending from a first location adjacent to the case to a second location further from the first location than the center point where the tab is electrically connected to the second battery lid such that the tab is immobilized only at the second location.

Kitoh et al. teach a lithium battery comprising a battery case, a first battery lid (16), a second battery lid (17), wherein flexible conductive tabs are disposed past a center point of the second battery lid and are electrically connected to the second battery lid. As a result, the internal resistance is reduced and current extraction from the internal electrode become easier. See Figure 4 and Column 5, Lines 20-43. Kitoh et al.

further teach that the tab is not attached to the second battery lid continuously over a distance extending from the first location to the second location. See Figure 4.

As seen in figure 1, Chreitzberg teaches a battery wherein the tab 8 (on the right hand side of the figure) connects to the negative electrode 3 (also on the right hand side of the figure) and extends to the negative terminal 7 (i.e. extends across the whole interior not immobilized) and is attached to the terminal in the cap only at the terminal (i.e. is only immobilized at the terminal in the cap), see also column 2, line 44 et seq.

Therefore, it would have been obvious to one of ordinary skill in the art to use flexible conductive tabs to electrically attach the negative electrode to the second battery lid such that the tab is only immobilized at a second location past the center point from the first location of the cap in the battery of Teramoto et al., as taught by Kitoh et al. and Chreitzberg in order to reduce internal resistance and facilitate current extraction from the electrode and also since it has been held that the rearrangement of parts is within a skilled artisans level of skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)

With respect to claim 44, Teramoto et al. teach the case does not have a fill hole. See Figure 9.

With respect to claims 67 and 87 Chreitzberg teaches that the distance from the first location to the second location is greater than the radius of the cap and the tab extends past the center point of the cap. See Figure 1.

With respect to claims 68 and 69 Teramoto et al. teach the electrodes are spirally wound on the terminal core. The terminal core further comprises a mandrel (49,50) around the core. See Figure 9.

With respect to claim 83, Teramoto et al. teach the positive electrode is in electrical commutation with the terminal core via a weld (52). See Example 2.

Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teramoto et al. (US 5,501,916), Kitoh et al. (US 6,399,242 B2) and Chreitzberg (US 3,159,508) as applied to claim 43 above, and further in view of Cogan (US 5,755,759).

Teramoto et al., Kitoh et al. and Chreitzberg as discussed above are incorporated herein.

However, Teramoto et al. Kitoh et al. and Chreitzberg do not disclose the use of PtIr alloy as the pin. Cogan teaches a biomedical device wherein the wire electrode is made of PtIr alloy because it can record or stimulate physiological function. See Column 3, Lines 43-56. Therefore, it would have been obvious to one of ordinary skill in the art to use PtIr alloy as the pin onto the battery of Teramoto, Kitoh and Chreitzberg, in order to provide an electrode pin that has reduced electrical resistance thereby improving the overall performance of the battery. If a technique has been used to improve one device (an electrode made of PtIr), and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. See MPEP 2141 (III) Rationale C, KSR v. Teleflex (Supreme Court 2007).

Claims 43-45, 67-69, 83 and 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teramoto et al. (US 5,501,916) in view of Kitoh et al. (US 6,399,242 B2) and Kitano et al. (US 5,912,089).

Teramoto et al. as discussed above is incorporated herein.

However, Teramoto et al. do not teach a conductive tab extending from a first location adjacent to the case to a second location further from the first location than the center point where the tab is electrically connected to the second battery lid such that the tab is immobilized only at the second location.

Kitoh et al. as discussed above is incorporated herein.

As seen if figures 2 and 3, Kitano et al. teach a battery wherein the tab 6 extends from an area adjacent to the case to a second location A and is attached to the cap only at location A (i.e. immobilized at location A) and is not immobilized over the entire distance from the first location to the second location (column 3, lines 30-40).

Therefore, it would have been obvious to one of ordinary skill in the art to use flexible conductive tabs to electrically attach the negative electrode to the second battery lid such that the tab is only immobilized at a second location past the center point from the first location of the cap in the battery of Teramoto et al., as taught by Kitoh et al. and Kitano et al. in order to reduce internal resistance and facilitate current extraction from the electrode and also since it has been held that the rearrangement of parts is within a skilled artisans level of skill in the art. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)

With respect to claims 67 and 87 Kitano et al. teaches that the distance from the first location to the second location is greater than the radius of the cap and the tab extends past the center point of the cap. See Figure 1.

Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teramoto et al. (US 5,501,916), Kitoh et al. (US 6,399,242 B2) and Kitano et al. (US 5,912,089) as applied to claim 43 above, and further in view of Cogan (US 5,755,759).

Teramoto et al., Kitoh et al. and Kitano et al. as discussed above are incorporated herein.

However, Teramoto et al. Kitoh et al. and Kitano et al. do not disclose the use of PtIr alloy as the pin. Cogan teaches a biomedical device wherein the wire electrode is made of PtIr alloy because it can record or stimulate physiological function. See Column 3, Lines 43-56. Therefore, it would have been obvious to one of ordinary skill in the art to use PtIr alloy as the pin onto the battery of Teramoto, Kitoh and Kitano et al., in order to provide an electrode pin that has reduced electrical resistance thereby improving the over all performance of the battery. If a technique has been used to improve one device (an electrode made of PtIr), and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. See MPEP 2141 (III) Rationale C, KSR v. Teleflex (Supreme Court 2007).

Allowable Subject Matter

Claims 70-82 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. For reasons made of record in the office action dated 3/7/07.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HODGE whose telephone number is (571)272-2097. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/665,687
Art Unit: 1795

Page 9

/Robert Hodge/
Examiner, Art Unit 1795